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**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION**

In re:

LE TOTE, INC., *et al.*,¹

Debtors.

)
) Chapter 11
)
) Case No. 20-33332 (KLP)
)
) (Jointly Administered)
)

**DECLARATION OF MACKENZIE SHEA IN
SUPPORT OF THE DEBTORS' MOTION FOR ENTRY
OF AN ORDER (I) ESTABLISHING BIDDING PROCEDURES
(II) SCHEDULING BID DEADLINES AND AUCTIONS, (III) APPROVING
THE FORM AND MANNER THEREOF, (IV) APPROVING THE SALE OF THE
DEBTORS' ASSETS FREE AND CLEAR, AND (V) GRANTING RELATED RELIEF**

I, Mackenzie Shea, hereby state and declare as follows:

1. I am a Managing Director at Berkeley Research Group, LLC ("BRG"), a professional services firm with offices located at 99 High Street, 27th Floor, Boston,

¹ A complete list of each of the Debtors in these chapter 11 cases may be obtained on the website of the Debtors' claims and noticing agent at <https://cases.stretto.com/letote/>. The location of the Debtors' service address is 250 Vesey Street, 22nd Floor, New York, New York 10281.

Massachusetts 02110. The debtors and debtors in possession in the above-captioned chapter 11 cases (collectively, the “Debtors”) have retained BRG as their financial advisor in these chapter 11 cases.²

2. I submit this declaration (“Declaration”) in support of the *Debtors’ Motion for Entry of an Order (I) Establishing Bidding Procedures, (II) Scheduling Bid Deadlines and Auctions, (III) Approving the Form and Manner of Notice Thereof, (IV) Approving the Sale of the Debtors’ Assets Free and Clear, and (V) Granting Related Relief* [Docket No. 27] (the “Motion”), filed on August 2, 2020, and the proposed *Order (A) Approving the Asset Purchase Agreement, (B) Authorizing the Sale of Assets Free and Clear of Liens, Claims, Encumbrances, and Interests, (C) Authorizing the Assumption and Assignment of Contracts and Leases, and (D) Granting Related Relief* (the “Sale Order”), filed contemporaneously herewith.³

3. Although BRG is being compensated for its work as the financial advisor to the Debtors, I am not being compensated separately for this testimony. Except as otherwise indicated herein, all of the facts set forth in this Declaration are based upon my personal knowledge, my review of relevant documents, information provided to me by BRG professionals involved in advising the Debtors in these chapter 11 cases, or information provided to me by the Debtors or their other advisors. If called upon to testify, I could and would testify to the facts set forth herein on that basis. I am over the age of 18 years and authorized to submit this Declaration on behalf of the Debtors.

² On September 16, 2020, the Court entered an order approving the retention of BRG as the Debtors’ financial advisor in these chapter 11 cases [Docket No. 348].

³ Capitalized terms not defined herein shall have the meanings given to them in the Motion or the Sale Order, as applicable.

Background and Qualifications

4. I am a licensed attorney and have been practicing in the bankruptcy and restructuring field for approximately 15 years. I have gained extensive knowledge and experience through both my legal and consultancy work and have led complex transactions that have covered a wide spectrum of restructuring situations and solutions, including sales, acquisitions, workouts, bankruptcies, financings, and liquidations. I advise debtors, buyers, and official committees of unsecured creditors, with a particular focus on retail and other “4-wall” businesses. Recently, I have worked in one of those capacities on the chapter 11 cases of The Hertz Corporation; GNC Holdings, Inc.; California Pizza Kitchen, Inc.; Century 21 Department Stores LLC; Neiman Marcus Group LTD LLC; and Town Sports International, LLC.

5. Prior to joining BRG, I was Lead Transaction Counsel of Gordon Brothers Group, LLC (“Gordon Brothers”), serving as the “first chair” deal lawyer responsible for structuring, negotiating, documenting, and executing hundreds of millions of dollars of distressed transactions across sectors including retail, wholesale, industrial, brands, and real estate. I worked extensively with the retail team and was involved in over one hundred chapter 11 cases, out-of-court restructurings, and store closing projects in which Gordon Brothers was a bidder, buyer, or consultant. Prior to Gordon Brothers, I was a partner at K&L Gates, LLC in the bankruptcy and restructuring group, representing debtors, equity investors, creditor committees, secured lenders, trustees, and buyers in connection with out-of-court restructurings, chapter 11 cases, and other insolvency proceedings.

BRG Retention

6. BRG has been engaged as financial advisor to the Debtors and has worked closely with the Debtors since March 2020. Since being engaged by the Debtors, BRG has rendered financial advisory services to the Debtors in connection with the Debtors’ evaluation of certain

strategic alternatives and preparations for potential chapter 11 cases. Additionally, BRG has worked closely with the Debtors' management and other advisors with respect to these strategic alternatives and has become acquainted with the Debtors' financial affairs, debt structure, operations, and related matters.

The Prepetition Marketing Process and Stalking Horse Bidder

7. As noted in the Motion, from the outset of these chapter 11 cases, the Debtors determined that a sale of the Debtors' assets was the best opportunity to maximize value for the benefit of the Debtors, their estates, and all other stakeholders.

8. It is my understanding that in April 2020, the Debtors' investment bank, Nfluence Partners ("Nfluence") launched a robust marketing process for the assets related to the Le Tote business (the "Le Tote Assets"). The Debtors, with the support of their lenders, subsequently determined to expand the marketing process to the assets related to the Lord & Taylor business (the "Lord & Taylor Assets," and together with the Le Tote Assets, the "Assets") in June 2020. For approximately six months, the Debtors, with the assistance of their advisors, conducted a broad and robust sale and marketing process, which culminated in the Debtors' entry into the Stalking Horse APA, as described below.

9. In connection with this sale and marketing process, it is my understanding that over 100 potential acquirers were contacted regarding a transaction for some or all of the Assets. The Debtors, with the assistance of their advisors, were in frequent communication with the potential purchasers, responding to diligence requests and engaging with potential buyers on possible legal and regulatory issues associated with each bid. At the request of the Debtors and Nfluence, I engaged in direct dialogue with certain of the potential acquirers and supplemented the sale efforts for the Lord & Taylor Assets beginning in early September 2020.

10. The Debtors, with the assistance of their advisors, evaluated each of these indications of interest and, after further diligence and negotiations, ultimately selected ZG Apparel Group LLC to act as the stalking horse (the “Stalking Horse Bidder”). On October 9, 2020, the Debtors filed the *Notice of Selection of Stalking Horse Bidder* [Docket No. 439], whereby the Debtors announced the selection of a stalking horse bidder and entry into the asset purchase agreement (the “Stalking Horse APA”). The Stalking Horse APA contained a purchase price of \$3.75 million for the intellectual property and e-commerce assets for both the Lord & Taylor and Le Tote businesses and a break-up fee of 3.0% of the purchase price (the “Break Fee”). The Stalking Horse APA was contingent upon the receipt of the Bid Protections (and subject to the post-facto court approval sought by the Motion). The Debtors believe that the Bid Protections are reasonable, provided a price floor for the auction, were appropriate under the circumstances, and benefitted the Debtors’ estates.

11. I believe the Stalking Horse APA improved the quality and increased the number of Qualified Bids received prior to, and over the course of, the virtual auction (the “Auction”). Ultimately, the price floor set by the Stalking Horse APA directly resulted in higher price for the Assets and, thus, I believe it was a reasonable use of estate assets.

The Auction

12. This Court approved certain Bidding Procedures in connection with the proposed sale of the Debtors’ Assets as more fully set forth in the order approving the Motion [Docket No. 269] (the “Bidding Procedures Order”). The Bidding Procedures, as modified by

subsequent notices,⁴ set a bid deadline of October 8, 2020 and an Auction date of October 15, 2020 for the proposed sale of the Assets.

13. The Debtors received three (3) Qualified Bids in advance of the Auction. In addition to the Stalking Horse bid, the Debtors received bids from the Saadia Group LLC (“Saadia”) and Branded Online, Inc. (“Branded”). Both the Saadia and Branded bids exceeded the purchase price as set forth in the Stalking Horse APA, inclusive of the Break Fee. In advance of the Auction, the Debtors’ advisors reached out to each of the bidders to clarify certain language in each asset purchase agreement, including which assets each bidder sought to purchase, so that the Debtors could evaluate each bid on an “apples-to-apples” basis. However, as set forth in the Bidding Procedures, the Debtors actively marketed all of their assets prior to the Auction and all bidders were provided the opportunity to make offers on all of the Debtors’ assets.

14. The Debtors determined to commence the Auction with the Branded Qualified Bid as the Baseline Bid. *See* Auction Tr. at 9.⁵ The Auction took place virtually on October 15, 2020 at 10:00 a.m. (prevailing Eastern Time). The Stalking Horse Bidder, Saadia, and Branded, along with their respective advisors, were in attendance. Also in attendance, among others, were: (a) certain members of the Debtors’ management team; (b) the Debtors’ advisors, including representatives from Kirkland & Ellis LLP, Nfluence and BRG; (c) Otterbourg P.C., counsel to the Debtors’ Prepetition ABL Lenders; (d) Choate Hall & Stewart LLP, counsel to the Debtors’ Prepetition Term Lenders; and (e) Cooley LLP, counsel to the Committee.

⁴ *See Notice of Adjournment of Sale Hearing and Related Dates and Deadlines* [Docket No. 412] and *Notice of Adjournment of Auction* [Docket No. 443].

⁵ The Auction transcript is attached hereto as Exhibit A.

15. After several rounds of bidding, the Stalking Horse Bidder (after first electing to use a pass) dropped out of the Auction while Saadia and Branded continued to bid. After approximately 10 bids, at that time, the Debtors, in consultation with their advisors and the Consultation Parties, determined to move to a final round of sealed bids. The Debtors did not place conditions on the assets that could be included in the sealed bids, although they did require that the sealed bids must be received by a set deadline and they could not be in the nature of a relative bid. *See* Auction Tr. at 23-25. The Debtors received two final sealed bids from Saadia and Branded. The Debtors ultimately determined, in consultation with the Consultation Parties, that Saadia was the Successful Bidder, inclusive of certain modifications to the Stalking Horse APA and conditions as set forth on the record. As set forth in the Debtors' *Notice of Successful and Backup Bidder with Respect to the Auction of the Debtors' Assets* [Docket No. 450], Saadia's winning bid contemplates the purchase of the Debtors' Assets for a base purchase price of \$12 million, subject to certain adjustments.

The Sale Was Negotiated in Good Faith and at Arms' Length and is the Best Offer Available to the Debtors

16. I was involved in the postpetition sale and marketing efforts that ultimately led to the Auction and the proposed sale of the Assets to Saadia.

17. As noted in the transcript of the Auction, at the beginning of the Auction, advisors for the Debtors reminded the bidders of the guidelines for the process.⁶ *See* Auction Tr. at 10-15. Advisors for the Debtors also confirmed that the parties present at the Auction, conducted via Zoom web conference, were familiar with the Bidding Procedures. *See* Auction Tr. at 13:17-25, 14:1-9. The advisors for the Debtors reminded the parties that, by submitting a Qualified Bid,

⁶ The Auction transcript is attached hereto as **Exhibit A**.

such parties agreed to serve as the Backup Bid if their Qualified Bid was the next highest or otherwise best bid after the Successful Bid. Auction Tr. at 12:7-13.

18. Before and during the Auction, I did not observe any conduct that indicated collusive or otherwise improper activity by the Qualified Bidders. Also, based on discussions I observed, I believe the Debtors and the Successful Bidder are entering into a definitive purchase agreement on an arm's-length basis and in good faith.

Conclusion

19. Given the duration and scope of the Debtors' prepetition and postpetition marketing process conducted in the manner described above (including, with respect to the postpetition marketing process, in accordance with the Bidding Procedures), it is my view, that the resulting proposed sale of the Assets to Saadia is the highest or otherwise best bid presently available to the Debtors under the circumstances.

[Remainder of page intentionally left blank]

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 19, 2020

/s/ Mackenzie Shea

Mackenzie Shea
Managing Director
Berkeley Research Group, LLC

Exhibit A

Auction Transcript

In the Matter Of:

re LE TOTE, INC., et al.

VIRTUAL AUCTION

October 15, 2020



IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:)
LE TOTE, INC., et al.,) Chapter 11
Debtors) Civil Action No.
20-33332(KLP)
(Jointly Administered)

AUCTION FOR THE SALE
OF THE DEBTORS' ASSETS

OCTOBER 15, 2020

1
2
3
4 AUCTION FOR THE SALE OF THE DEBTORS' ASSETS
5 was taken the above styled and numbered cause
6 on October 15, 2020, from 9:26 a.m. to 10:42
7 p.m., before KATERI A. FLOT-DAVIS, CSR, CCR in
8 and for the State of Texas, reported by
9 machine shorthand pursuant to the Federal
10 Rules of Civil Procedure and the provisions
11 stated on the record herein.
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A P P E A R A N C E S

FOR BRG GLOBAL:

MCKENZIE SHEA
DAN NICKELSON
MICHAEL VAN DER BERG
ED KRAMER
BRETT WITHERELL

FOR THE DEBTORS IN POSSESSION:

DAVID L. EATON, ESQ.
MARSHALL SHAFFER, ESQ.
JAIMIE FEDELL, ESQ.
STEPHANIE COHEN, ESQ.
STEVEN SERAJEDDUI, ESQ.
CHRISTIAN ATWELL, ESQ
BILL HALABY, ESQ.
AMANDA GOTTLIEV, ESQ
CONOR MCNAMARA, ESQ.
PRENTIS ROBINSON, ESQ.
Kirkland & Ellis, LLP
300 North La Salle Street
Chicago, Illinois 60654

FOR THE ZG APPAREL GROUP, LLC:
RICHARD SILVERSTEIN
ROBERT NOSEK
MR. MANSOUR

FOR BRANDED ONLINE, INC:
MIKE BASSIRI

FOR THE SAADIA GROUP, LLC:
JACK SAADIA

Also Present:
Adalyne Garcia, Video Monitor
Juan De La Torres, Video Monitor/Videographer

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P R O C E E D I N G S

MS. SHEA: Good morning.

This is McKenzie Shea of BRG. It is 10:26 a.m.

I would ask the court reporter to begin to begin keeping a record.

David, can you confirm that you can hear us well enough?

MR. EATON: Yes.

MS. SHEA: Thank you.

On behalf of the debtors and its advisors, Kirkland & Ellis, BRG and Influence, I would like to welcome you to today's auction and will make a brief opening statement on the record.

I am McKenzie Shea of BRG and I will act as our primary spokesperson today.

We are here today in the Chapter 11 cases of Le Tote, Inc., and its affiliated debtors, lead Case No. 20-3332, pending in the United States Bankruptcy Court for the Eastern

District of Virginia.

With us from the company are Dan Nicholson, Michael van den Berg and Ed Kramer.

We would request that each party designate and attempt to utilize one speaker for their respective group.

Today we will be conducting an auction of the debtors' intellectual property and related assets pursuant to the Bid Procedures Order entered at Docket 269, as well as the associated notices filed at Dockets 412, 442 and 443.

The debtors are not seeking to sell or assign any store leases of the debtors or executory contracts at this time other than as expressly set forth in the bids we have received.

Those intellectual properties and related assets encompass both the Le Tote sale and the Lord & Taylor sale as those terms are defined in the Bid Procedures Order.

Pursuant to the Bid Procedures

1 Order, the debtors selected ZG Apparel
2 Group, LLC, who we will refer to it as
3 ZAR, as the stalking horse bidder for
4 the assets, and filed a notice of such
5 on October 9th at Docket 439.

6 The stalking horse bid is a
7 qualified bid and ZAR is a qualified
8 bidder for purposes of today's auction,
9 as those terms are defined in the Bid
10 Procedures Order.

11 The debtors have received two other
12 qualified bids from qualified bidders as
13 those terms are likewise defined in the
14 Bid Procedures Order.

15 The two were received from Branded
16 Online, Inc., who we will refer to as
17 Branded Online, and Saadia Group, LLC,
18 who we will refer to as Saadia.

19 At this time I would ask each
20 bidder, through one spokesperson, after
21 I call your respective group to
22 acknowledge that they have read and are
23 familiar with the Bid Procedures Order.

24 First, starting with the stalking
25 horse bidder, ZAR.

1 MR. SILVERSTEIN: Hi. Richard
2 Silverstein.

3 MS. SHEA: Richard, could you
4 confirm that you're familiar with the
5 Bid Procedures Order?

6 MR. SILVERSTEIN: Yes.

7 MS. SHEA: Thank you.

8 Branded Online.

9 MR. BASSIRI: Good morning.

10 This is Mike Bassiri with Branded
11 Online. We are familiar with the bid
12 procedures.

13 Thank you.

14 MS. SHEA: Thank you.

15 Saadia.

16 MR. SAADIA: Yes. This is Jack --
17 this is Jack Saadia from Saadia Group.
18 We are confirming that we are familiar
19 with the bid procedure.

20 MS. SHEA: Thank you.

21 Of the qualified bids from those
22 three parties, the debtors have selected
23 the bid of Branded Online to be what is
24 referred to as the baseline bid for
25 purposes of opening today's auction.

1 A copy of the baseline bid will be
2 circulated to you momentarily by a
3 member of the Kirkland & Ellis team.

4 While you wait to receive that, we
5 are going to describe the baseline bid
6 to you.

7 MR. EATON: McKenzie, to be clear,
8 that is going to be circulated to the
9 qualified bidders -- to the stalking
10 horse bidders.

11 MS. SHEA: Correct.

12 MR. EATON: We will be describing
13 it for the other attendees.

14 MS. SHEA: Thank you.

15 The baseline bid of Branded Online
16 is in the same form of purchase
17 agreement as the stalking horse bid of
18 ZAR, with the following changes:

19 1. The purchase price is
20 3,920,000.

21 2. A provision that acquired
22 customer data will expressly include
23 customer data from the stores.

24 And, 3. A provision that the
25 parties will negotiate, in good faith,

1 an extension to the wind-down license if
2 stores are closed due to COVID-19 during
3 the period before the license expires.

4 We believe that the agreement is
5 now the same as those submitted by ZAR
6 and by Saadia, with the sole exception
7 being the higher purchase price and
8 those two legal-in-nature changes that I
9 just mentioned.

10 The debtors believe all bidders are
11 now bidding on an apples-to-apples basis
12 for purposes of today's auction.

13 The debtors intend to conduct the
14 auction in a determined bidding order.

15 As ZAR had the stalking horse bid
16 and Branded Online has been designated
17 as the baseline bid, the first
18 opportunity to bid at the appropriate
19 time will be given to Saadia.

20 After that, we intend that
21 subsequent rounds will proceed in the
22 same order: next to ZAR, then to
23 Branded Online, and then back to Saadia,
24 and will continue in that same order for
25 each subsequent round.

1 We will not accept open cry bids at
2 this time.

3 Each bidder will be allowed one
4 pass for the entirety of the auction.

5 What that means is that the pass
6 allows the bidder to be skipped in the
7 bidding order and the bidder will not be
8 required to bid again until the set
9 bidding order returns to it.

10 At this time, the bidding increment
11 will be 200,000. Each bid and each
12 round must exceed the prior highest and
13 best bid by at least that amount.

14 The debtors will announce what that
15 required overbid amount is at each
16 opportunity to bid.

17 In terms of the breakup fee payable
18 to ZAR as stalking horse, the baseline
19 bid of Branded Online has sufficiently
20 overbid the stalking horse bid such that
21 the breakup fee amount has been covered
22 and the debtors will not give further
23 credit to payment of that amount in
24 subsequent rounds.

25 As a result, each bidder must

1 simply clear the prior highest and best
2 bid by at least the 200,000 bidding
3 increment, but nothing further will be
4 deducted on account of the breakup fee
5 for determining what is then the highest
6 and best bid.

7 At conclusion of bidding the
8 debtors will designate the highest and
9 best bid as the successful bid and close
10 the auction.

11 The prior highest and best bid will
12 be the backup bid, pursuant to the
13 bidding procedures.

14 The debtors intend to select a
15 successful bidder and a back-up bidder
16 following the conclusion of today's
17 auction.

18 The designated backup bidder's
19 deposit will be returned at the earlier
20 of closing of the successful bid or
21 60 days following the auction.

22 The debtors, in consultation with
23 their advisors, their lenders and the
24 Creditors Committee, reserve the right
25 to make changes to the bid procedures at

1 any time.

2 We are conducting this auction
3 virtually through a Zoom platform and we
4 understand the unusualness of that.

5 Right now we are in what we call
6 the main auction room.

7 Each bidding party and consultation
8 party has their own separate breakout
9 room in which no one else can see or
10 hear what you discuss in there.

11 At various times during the
12 auction, the debtors may instruct the
13 video monitor to virtually push parties
14 to their respective breakout rooms and
15 to call them back to the main auction
16 room when the debtors so elect.

17 At this time I would ask each
18 bidder, after I call your name, to
19 confirm that you understand the
20 procedures or ask any questions.

21 First, in the same order we called
22 them last time:

23 Richard, on behalf of ZAR, do you
24 understand or have any questions?

25 MR. SILVERSTEIN: I understand the

1 procedure.

2 MS. SHEA: Thank you.

3 Mike, on behalf of Branded Online?

4 MR. BASSIRI: We understand the
5 procedure. Thank you.

6 MS. SHEA: Jack, on behalf of
7 Saadia?

8 MR. SAADIA: We understand the
9 procedure. Thank you.

10 MR. SILVERSTEIN: Rob Nosek is my
11 lawyer, for ZAR. He would like to ask a
12 question.

13 MS. SHEA: Please go ahead, Rob.

14 MR. NOSEK: Thank you. Robert
15 Nosek for ZAR.

16 On the -- the subsequent rounds, if
17 ZG bids, you're saying that we would not
18 get a credit for the breakup fee that we
19 would be entitled to when you're trying
20 to -- to determine what's higher or
21 better?

22 MS. SHEA: Correct.

23 MR. NOSEK: Okay. Thank you.

24 MS. SHEA: Are there any questions
25 from any of the consultation parties

1 that are on the phone?

2 (No Response.)

3 MS. SHAE: Hearing no questions, in
4 the order we prescribed the debtors now
5 intend to open bidding.

6 First bid is presented to Saadia.
7 With a 200,000 bid increment, the
8 overbid required would be 4,120,000.

9 Jack, would Saadia like to make a
10 bid at that amount?

11 MR. SAADIA: Yes. This is Jack.
12 4 million 120, we bid for.

13 MS. SHEA: ZAR? With that
14 knowledge, the leading bid, the order is
15 to you. The bid is 4,320,000.

16 Would you like to bid at that
17 amount?

18 ATTORNEY: Excuse me. Can we have
19 one minute, please?

20 MS. SHEA: Yes.

21 MR. NOSEK: This is Robert Nosek
22 for ZAR. Hold on one second.

23 MS. SHEA: We are holding, Rob,
24 until you're ready.

25 MR. NOSEK: Clarifying the issue --

1 and this is how we read the APA -- if we
2 participate in the bidding and we are
3 not the successful bidder, ZAR still
4 gets its breakup fee at the end,
5 correct?

6 MS. SHEA: Yes, that is correct.

7 MR. EATON: Yes. Subject to court
8 approval, but that is correct.

9 MR. NOSEK: Yes. And subject to
10 court approval, of course.

11 MR. EATON: Yes.

12 MR. NOSEK: Just one more second.

13 ATTORNEY: ZAR bids 4,320.

14 MS. SHEA: Thank you.

15 Is that Richard?

16 ATTORNEY: Yes, it was.

17 MS. SHEA: Thank you.

18 Continuing with the order, the next
19 bid, with that being the current leading
20 bid, is to Branded Online. With the
21 increment, that bid is 4,520,000.

22 Branded Online, would you like to
23 make a bid at that amount?

24 MR. BASSIRI: This is Branded
25 Online and we have a question.

1 Would there be the possibility of
2 us discussing privately with one of the
3 other bidders before we make that
4 decision?

5 MS. SHEA: I think at this time the
6 debtors are going to elect to push
7 people into a breakout room.

8 Would the video monitor please do
9 that?

10 MR. BASSIRI: Well, we -- how do we
11 do that?

12 How do -- we would like to speak to
13 the Saadia Group.

14 Is that an option for us at this
15 time?

16 MS. SHEA: I understood your
17 question, but the debtors need to
18 discuss that amongst ourselves.

19 So I'm asking that the video
20 monitor push everyone to their
21 respective breakout rooms so we can do
22 that.

23 MR. BASSIRI: Okay. I understand.
24 Thank you.

25 THE VIDEOGRAPHER: Okay. I'm going

1 to open the room now.

2 MS. SHEA: Thank you.

3 (Brief Recess Taken.)

4 MS. SHEA: This is McKenzie Shea at
5 BRG. It is 11:39.

6 I would ask the court reporter to
7 go back on the record.

8 THE REPORTER: I'm on the record.
9 Thank you.

10 MS. SHEA: Thank you.

11 Thank you, everyone, for your
12 patience.

13 At this time the debtors are not
14 going to permit any of the bidders to
15 speak to each other.

16 Before we resume bidding, we're
17 going to ask for confirmation from
18 Branded Online.

19 Mike, would you please confirm on
20 behalf of Branded Online that you have
21 not had any discussions with any of the
22 bidders involved in the process?

23 MR. BASSIRI: We confirm we have
24 not had any discussions.

25 MS. SHEA: Thank you.

1 With that, we're going to resume
2 bidding.

3 A few reminders. The bidding
4 increment is at least 200,000. While
5 I'll provide that figure to you, you are
6 permitted to bid more than that.

7 Two, each bidder is allowed one
8 pass to utilize in the auction.

9 The current leading bid is at
10 4,320,000, by ZAR.

11 With that, the bidding order is to
12 Branded Online, with a minimum overbid
13 of 4,520,000.

14 Would Branded Online like to make a
15 bid in at least that amount?

16 MR. BASSIRI: Branded Online makes
17 a bid for \$4,520,000.

18 MS. SHEA: Thank you.

19 Saadia, it is your turn in the
20 bidding order. It would be a required
21 overbid of that leading bid of
22 4,720,000.

23 Would you like to make a bid in at
24 least that amount?

25 MR. SAADIA: Yeah. This is Jack.

1 Confirm, 4,720.

2 MS. SHEA: Thank you, Jack.

3 In the bidding order we are now at
4 ZAR. With that leading bid, the minimum
5 overbid would be at least 4,920,000.

6 Would ZAR like to make a bid in at
7 least that amount?

8 MR. MANSOUR: We're going to use
9 our pass right here.

10 MS. SHEA: Pardon? I'm sorry.

11 MR. MANSOUR: We're going to use
12 our pass right here.

13 MS. SHEA: Thank you.

14 Now in the bidding order at Branded
15 Online. The prior leading bid was of
16 Saadia at the 4,720,000.

17 So the ask is now to you of an
18 overbid of 4,920,000.

19 MR. BASSIRI: This is Branded
20 Online. We bid \$4,920,000.

21 MS. SHEA: Thank you.

22 As a reminder, I would ask
23 everybody who is not speaking to be on
24 mute. We're getting some background
25 noise here.

1 In the bidding order, it's now back
2 to Saadia at 5,120,000 as the required
3 overbid.

4 Would you like to bid in at least
5 that amount?

6 MR. SAADIA: Yes, 5,120.

7 MS. SHEA: I'm going to pause there
8 for just a minute.

9 (Pause.)

10 MS. SHEA: Thank you.

11 In the bidding order, we're now
12 back to ZAR. The minimum required bid
13 would be 5,320,000.

14 Would you like to make a bid in at
15 least that amount?

16 MR. MANSOUR: We're out. We're
17 out. Thank you.

18 MS. SHEA: Thank you for your
19 participation and having been the
20 stalking horse. We thank you for that.

21 We are now, in the bidding order,
22 back to Branded Online.

23 The bid would be 5,320,000. Would
24 you like to make a bid in that amount?

25 MR. BASSIRI: 5 million 320 for

1 Branded Online. Thank you.

2 MS. SHEA: Thank you.

3 To Saadia now at a minimum overbid
4 of 5 million 520.

5 MR. SAADIA: Yes. 5,520.

6 MS. SHEA: Next to Branded Online
7 at 5,720,000.

8 Would you like to bid in that
9 amount?

10 MR. BASSIRI: Yes. 5 million 720.

11 MS. SHEA: To Saadia. The minimum
12 overbid would be at least 5,920,000.

13 Would you like to bid in that
14 amount?

15 MR. SAADIA: Yes. 5,920.

16 MS. SHEA: Back to Saadia at a
17 minimum overbid of at least --

18 MR. WITHERELL: No. Branded. Back
19 to Branded. That was Saadia who just
20 bid.

21 MS. SHEA: Thank you.

22 Pause one minute.

23 (Pause.)

24 MS. SHEA: At this time the debtors
25 are going to take a break.

1 Juan, I would ask that you move the
2 debtors' team to their breakout room.

3 (Brief Recess Taken.)

4 MS. SHEA: Thank you, everyone.

5 This is McKenzie Shea from BRG. Thank
6 you for your patience.

7 The debtors appreciate the robust
8 bidding that Branded Online and Saadia
9 is have engaged in to this point.

10 During the break, the debtors
11 consulted with their consultation
12 parties and at this point in the auction
13 we are going to seek sealed bids, a one
14 and done opportunity to bid on these
15 assets.

16 To explain how it will work, we
17 will give each of the two bidders
18 15 minutes to consult amongst themselves
19 on the content of that bid. When
20 they're prepared to submit, they will
21 e-mail that bid to a representative for
22 the debtors, which is Marshall Shaffer
23 at Kirkland & Ellis.

24 His e-mail address, which I'll read
25 twice and which I believe both bidders

1 already have, is M-a-r-s-h-a-l-l dot
2 S-h-a-f-f-e-r at Kirkland.com. Once
3 again, M-a-r-s-h-a-l-l dot S-h-a-f-f-e-r
4 at Kirkland.com.

5 Importantly, the sealed bid you
6 submit must be greater than 5,920,000,
7 which is the current high bid of Saadia.
8 It must be in an amount certain, a firm
9 purchase price. It may not be what is
10 referred to as a relative bid.

11 You may not bid one dollar more
12 than the other specified bidder.

13 With that, I would ask first,
14 Branded Online, to confirm that they
15 understand these procedures.

16 MR. BASSIRI: This is Mike Bassiri
17 of Branded Online.

18 We do understand it. I'm not
19 certain that we agree with it, but --
20 but we would like time to confer and
21 then get back to you whether or not we
22 agree with this process.

23 MS. SHEA: I understand the
24 request.

25 Before we agree, Jack, on behalf of

1 Saadia, do you understand the
2 procedures?

3 MR. SAADIA: I hold the same
4 position as Mike. We were told that
5 it's going to be an open bid, not a
6 sealed bid, from the get-go, and this is
7 not what we signed up for. But we'll
8 consult the attorney and we'll get back
9 to you.

10 MS. SHEA: I would point each
11 bidder to the Bid Procedures Order,
12 Page 18, Page 37 of the PDF, the
13 Reservation of Rights, which allows the
14 debtors, in consultation with the
15 consultation parties, to institute
16 procedures at the auction as they see
17 fit.

18 With that, the debtors, the
19 consultation parties will remain in this
20 main auction room. We will give the
21 bidders the opportunity to break out
22 amongst themselves, and we would ask
23 that you return in five minutes.

24 MR. BASSIRI: McKenzie, this is
25 Mike Bassiri.

1 Could you confirm that this is a
2 once-and-for-all bid, meaning there will
3 be no further reopening of the bidding
4 regardless of what bids come in?

5 MS. SHEA: That is correct. This
6 is one and done.

7 And while I would ask each bidder
8 to confirm amongst themselves, we're not
9 going to have you come back to this main
10 auction room.

11 You can make an election to bid or
12 not, but that's not going to be
13 discussed in the main auction room.

14 MR. BASSIRI: So are you saying
15 that we have to break out to our room,
16 within 15 minutes submit the bid, and
17 we're done?

18 MS. SHEA: Correct.

19 MR. BASSIRI: Okay. Understood.

20 MR. DAYON: This is Jeffrey Dayon
21 from the Saadia Group.

22 Will we still have the five minutes
23 and discuss it and come back into the
24 room before we break for the -- for the
25 sealed bid procedure?

1 MS. SHEA: You can discuss amongst
2 yourselves, and if you request to speak
3 to the debtors, we'll allow that
4 off-line. But they're not going to be
5 allowed back into the main auction room.

6 At this point, the debtors have
7 consulted with who they need to.
8 They're invoking their right to do
9 sealed bids. It will be one and done.

10 MR. DAYON: We understand that, but
11 we would still like the opportunity to
12 have a five-minute break and have
13 everybody come back.

14 MR. BASSIRI: We agree -- we agree.
15 Branded Online.

16 MS. SHEA: We are not -- on behalf
17 of the debtors, we are not coming back
18 to this main room.

19 You can choose not to participate,
20 but we are not going to have dialogue on
21 this point.

22 MR. EATON: Right.

23 If you have questions, we can do it
24 off-line.

25 MS. SHEA: Correct. And that was

1 the five minutes provided to you.

2 MR. DAYON: Well, that's what I'm
3 asking. We want five minutes to consult
4 and then to come back into this room so
5 that if the questions affect everybody,
6 everybody can be a part of that
7 discussion.

8 MS. SHEA: You will be allowed to
9 come into a side room with the debtor,
10 to the extent you have questions.

11 MR. BASSIRI: What is that side
12 room?

13 MS. SHEA: It's a breakout room
14 that would be just with the debtors,
15 which includes representatives of the
16 company.

17 MR. BASSIRI: I understand. I just
18 need the name of that break room. What
19 is the name --

20 MS. SHEA: We -- we control -- we
21 control it.

22 So send us an e-mail to the extent
23 you want to talk to us, and we will
24 bring you into a breakout room.

25 MR. BASSIRI: E-mail to --

1 MS. SHEA: To Marshall.

2 MR. BASSIRI: Very well.

3 Would you extend the 15 minutes to
4 30 minutes, please?

5 MS. SHEA: We will accommodate
6 that.

7 MR. BASSIRI: Thank you. So
8 30 minutes?

9 MS. SHEA: Thirty minutes.

10 Juan, at this point I would ask you
11 to push everyone to their respective
12 breakout rooms.

13 THE VIDEOGRAPHER: Okay. No
14 problem.

15 (Brief Recess Taken.)

16 MS. SHEA: Hi everyone. This is
17 McKenzie Shea from BRG.

18 I first just want to ask: Is the
19 court reporter on?

20 THE REPORTER: Yes, I am.

21 MS. SHEA: We would like to reopen
22 the record at 10:32.

23 The debtors received two sealed
24 bids by the 4:00 p.m. deadline. After
25 receiving the two sealed bids the

1 debtors reviewed them and consulted with
2 the --

3 (Communications breakup.)

4 MS. SHEA: This is McKenzie Shea
5 from BRG. We appreciate everyone's time
6 this late at night. The debtors are
7 going to make a statement into the
8 record.

9 We received two sealed bids by the
10 4:00 p.m. deadline. After receiving the
11 two sealed bids, the debtors reviewed
12 and consulted with the consultation
13 party.

14 The sealed bid submitted by Branded
15 Online has been accepted and designated
16 as the backup bid.

17 The debtors have determined that
18 Saadia has submitted the highest and
19 otherwise best bid and will designate it
20 as the successful bid now.

21 I will read the terms of that
22 successful bid into be the record.

23 The terms of the successful bid had
24 terms when it was submitted at 4:00 p.m.
25 that required the debtors to deliberate,

1 to seek clarification and to consultant
2 the consultation parties.

3 The successful bid by Saadia that
4 has been accepted by the debtors is as
5 follows:

6 The purchase price is 12 million.

7 A deposit of 10 percent of that
8 amount, equivalent to 1.2 million, is
9 required to be posted by 5:00 p.m.
10 tomorrow.

11 The right to extend the closing
12 date is to November 17th with a
13 November 23rd outside date.

14 Saadia Group will receive
15 designation rights with respect to
16 contracts related solely to contracts
17 for the operation of the Le Tote and
18 Lord & Taylor eCommerce platform, the
19 lease for the Le Tote Distribution
20 Center in Stockton, and leases for the
21 equipment and machinery located in the
22 Le Tote Distribution Center in Stockton,
23 with Saadia Group to pay cure costs for
24 any such contracts designated for
25 assumption and assignment and subject to

1 any necessary third-party consent.

2 The purchase price is to also
3 include all owned equipment and
4 machinery located with the Le Tote
5 business wherever located today, and
6 inventory associated with the Le Tote
7 business available as of the closing.

8 The terms of the Asset Purchase
9 Agreement to memorialize this must be
10 acceptable to the debtors in their sole
11 discretion and be executed no later than
12 5:00 p.m. tomorrow, on October 16th.

13 In the event the successful bid is
14 not executed by 5:00 p.m. tomorrow, the
15 debtors will proceed with the backup bid
16 submitted by Branded Online in the
17 sealed bid round at the sale hearing on
18 October 20th.

19 With that, the debtors thank you
20 for your participation and would close
21 the auction.

22 MS. EDMONDSON: McKenzie?

23 McKenzie, I think -- you did say
24 November 23rd is the outside date,
25 correct?

1 MS. SHEA: This is McKenzie Shea
2 for BRG.

3 Jamie, can you just identify
4 yourself?

5 MS. EDMONDSON: Yes. Jamie
6 Edmondson on behalf of Robinson & Cole
7 on behalf of Saadia Group.

8 You did say November 23rd is the
9 outside date, correct?

10 MS. SHEA: Correct. That is what I
11 stated.

12 MS. EDMONDSON: Thank you.

13 MR. DAYON: This is Jeffrey Dayon
14 on behalf of the Saadia Group.

15 The right to extend is not the same
16 as the 17th. It's the same as the
17 outside group. It's the 23rd.

18 MS. SHEA: Hold on a minute,
19 please.

20 David, and you can confirm that I
21 misspoke on that. Both are the 23rd.

22 MR. EATON: David Eaton, Kirkland &
23 Ellis, on behalf of the debtor.

24 Yes, confirm, the dates are the
25 23rd, the extension of the outside

1 dates.

2 MS. SHEA: Thank you, David.

3 Okay. With that, we're going to go
4 off the record at 10:42.

5 Again, we thank you everyone for
6 their participation --

7 MR. SAADIA: I would like to ask --
8 I would like to ask one more thing. I
9 didn't hear.

10 There is a -- other sealed bid, we
11 didn't hear what was that bid. It was
12 not announced.

13 MR. EATON: That's correct.

14 MS. SHEA: It is not being
15 announced on the record.

16 MR. SAADIA: There's a -- there's a
17 second bid or not?

18 MS. SHEA: The Saadia bid, as
19 described on the record, has been
20 accepted as the successful bid.

21 We are not, on the record,
22 announcing the backup bid submitted by
23 Branded Online in the sealed bid round.

24 The debtors have represented to
25 you, and will confirm again now, that

1 Branded Online did submit a bid by the
2 4:00 p.m. deadline, and that bid has
3 been accepted as the backup bid.

4 MR. SAADIA: Okay. Understood.

5 MS. SHEA: Thank you, again.

6 And I thank the court reporter,
7 Juan, Adalyne. Greatly appreciate your
8 help today.

9 With that, if you could please end
10 the auction and close all the rooms.

11 Thank you very much.

12 (Auction concluded.)

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IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
RICHMOND DIVISION

In re:)
LE TOTE, INC., et al.,) Chapter 11
Debtors) Civil Action No.
20-33332(KLP)
(Jointly Administered)

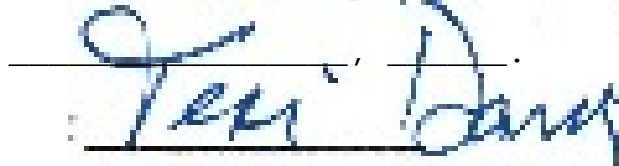
REPORTER'S CERTIFICATION

OCTOBER 15, 2020

I, KATERI A. FLOT-DAVIS, Certified
Shorthand Reporter in and for the State of
Texas, hereby certify to the following:

I further certify that I am neither
counsel for, related to, nor employed by any
of the parties in the action in which this
proceeding was taken, and further that I am
not financially or otherwise interested in the
outcome of the action.

Certified to by me this _____ day of



KATERI A. FLOT-DAVIS, CSR 8462;

Expiration Date: 12-31-22

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